

*Application No. 10/774922*  
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*Amendment*  
*Attorney Docket No. S63.2B-11269-US01*

### REMARKS

This Amendment is in response to the Office Action dated July 10, 2006. Each issue in the official action is discussed below.

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#### *Claim Objections*

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Claims 36 and 37 were objected to because of certain informalities. In response, the claims have been amended as suggested in the objection.

#### *§103 Rejections*

Claims 1-39 were rejected under 35 USC §103(a) as being unpatentable over Mackiewicz et al. (US 2005/0060025 A1). A full account of the rejection may be found on pages 2-3 of the official action.

Applicant respectfully traverses. It is asserted in the rejection that Mackiewicz et al. substantially disclose the invention as claimed; however, it is stated in the rejection, with regard to claims 1 and 17, that the reference does not disclose that the shape of the receptacle is maintained during the enlarging step. The rejection further states at the bottom of page 3 and continuing on page 4 of the official action that it would have been obvious matter of design choice to maintain the shape of the receptacle during the enlarging step...because Applicant has not disclosed that maintaining the shape of the receptacle during the enlarging step...provides an advantage, is used for a particular purpose, or solves a stated problem.

In response, Applicant asserts that, in fact, maintaining the shape of the receptacle during the enlarging step *does* provide an advantage and provides a Declaration herewith to that effect. It is respectfully requested that the accompany Declaration of Kristopher Henry Vietmeier under §1.132 be entered and considered as evidence in support of patentability of the present application.

As mentioned in paragraph 4 of the accompanying Declaration, for the purpose of using stresses induced in a receptacle of a defined shape to hold an object within the receptacle, inducing the stresses in a manner that is more uniform, such as the manner claimed in claims 1 and 17 of the present invention, results in higher retention forces than inducing the stresses in a manner that results in non-uniform or discrete strains, such as the manner described in

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Mackiewicz et al. (US 2005/0060025 A1) and shown in figures 6 and 7 of Mackiewicz et al., wherein the hourglass shaped opening 38 is deformed in a non-uniform manner to accept the radiopaque marker 36.

As further stated in paragraph 5 of the accompanying Declaration, in the expansion of a receptacle, while maintaining the original shape of the receptacle, as claimed in claims 1 and 17 of application 10/774922, uniform (or more uniform) strains are created, taking advantage of the full cross sectional area of the member for imparting forces on the object placed in the receptacle for retainment. In comparison, if the shape is deformed in a non-uniform manner, such as the manner described in Mackiewicz et al. (US 2005/0060025 A1) and shown in figures 6 and 7 of Mackiewicz et al., thereby changing its shape, lower retainment forces result. The non-uniform strain creates discrete stresses which are confined to localized areas of the shape, utilizing only a portion of the receptacle for generating retainment forces on the object.

As such, there is an advantage in maintaining the shape of the receptacle during the enlarging step of claims 1 and 17, over the manner described in Mackiewicz et al. (US 2005/0060025 A1) and shown in figures 6 and 7 of Mackiewicz et al. in which the shape of the receptacle is deformed in a non-uniform manner. Withdrawal of the rejection is therefore respectfully requested.

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**CONCLUSION**

The application should now be in condition for allowance. Allowance is therefore earnestly solicited. If the Examiner would like to further discuss the case, he is encouraged to contact the undersigned.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

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